

UNITED STATES DISTRICT COURT
for the
District of Arizona

United States of America

v.

Salvador Diaz-Gutierrez,

095 671 536

Defendant

)

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)

)

) Case No.

)

17-7504 MJ

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date of October 14, 2017, in the County of Pinal, in the District of Arizona, the defendant violated Title 8, U.S.C. § 1326(a), a felony, and Title 8, U.S.C. § 1325(a)(2), a class B misdemeanor, an offense described as follows:

See Attachment A Incorporated By Reference Herein

I further state that I am a Border Patrol agent with U.S. Customs and Border Protection.

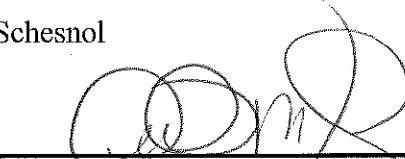
This criminal complaint is based on these facts:

See Attached Statement of Probable Cause Incorporated By Reference Herein

ceB

REVIEWED BY: Charles E. Bailey P.S. for AUSA Jacqueline Schesnol

Continued on the attached sheet.


Complainant's signature

Albert A. Martinez
U.S. Border Patrol Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: October 16, 2017


Judge's signature

Bridget S. Bade
United States Magistrate Judge

Printed name and title

City and state: Phoenix, Arizona

ATTACHMENT A

Count 1

On or about October 14, 2017, Salvador Diaz-Gutierrez, an alien, was found in the United States of America at or near Cucklebur, in the District of Arizona, after having been previously denied admission, excluded, deported, and removed from the United States at or near San Ysidro, California, on or about August 9, 2017, and not having obtained the express consent of the Secretary of the Department of Homeland Security to reapply for admission thereto; in violation of Title 8, United States Code, Section 1326(a), a felony.

Count 2

On or about October 14, 2017, at or near Cucklebur, in the District of Arizona, Salvador Diaz-Gutierrez, an alien, did elude the examination or inspection by immigration officers in violation of Title 8, United States Code, Section 1325(a) (2), a class B misdemeanor.

STATEMENT OF PROBABLE CAUSE

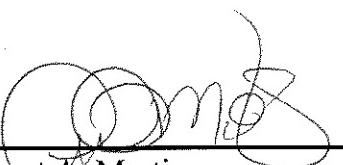
I, Albert A. Martinez being duly sworn, hereby depose and state as follows:

1. Your affiant is a United States Border Patrol Agent. I have learned from direct participation in the investigation and from the reports and communications of other agents and officers the facts recited herein.
2. On October 14, 2017, Border Patrol Agent C. Torres encountered an individual near Cucklebur, in the District of Arizona. The agent identified himself as a Border Patrol agent and performed an immigration inspection on the individual. The individual, later identified as Salvador Diaz-Gutierrez, admitted to being a citizen and national of a country other than the United States, unlawfully present in the United States. Diaz-Gutierrez was transported to the Casa Grande Border Patrol Station for further processing. Diaz-Gutierrez was held in administrative custody until his identity could be confirmed along with his immigration history.
3. Immigration history checks revealed Salvador Diaz-Gutierrez to be a citizen of Mexico and a previously deported alien. Diaz-Gutierrez was removed from the United States to Mexico through San Ysidro, California, on or about August 9, 2017, pursuant to the reinstatement of a removal order issued by an immigration official. There is no record of Salvador Diaz-Gutierrez in any Department of Homeland

Security database to suggest that he obtained permission from the Secretary of the Department of Homeland Security to return to the United States after his removal.

4. Furthermore, there is no record of Salvador Diaz-Gutierrez in any Department of Homeland Security database to suggest that after his last removal from the United States he entered the United States at an official Port of Entry. Had Diaz-Gutierrez presented himself at a Port of Entry, Department of Homeland Security records likely would reveal that information. Accordingly, your affiant believes that Salvador Diaz-Gutierrez entered the United States at a location not designated as an official Port of Entry, and thereby eluded examination and inspection by Immigration Officers of the United States. Diaz-Gutierrez's immigration history was matched to him by electronic fingerprint comparison.
5. On October 14, 2017, Salvador Diaz-Gutierrez was advised of his constitutional rights. Diaz-Gutierrez freely and willingly acknowledged his rights and agreed to provide a statement under oath. Diaz-Gutierrez stated that his true and complete name is Salvador Diaz-Gutierrez and that he is a citizen of Mexico and of no other country. Diaz-Gutierrez stated that he illegally entered the United States at or near Lukeville, Arizona, on or about October 9, 2017, at or around 8:00pm, without inspection by an immigration officer. Diaz-Gutierrez further stated that he had been previously removed from the United States to Mexico and did not receive permission from the Secretary of the Department of Homeland Security to re-enter the United States after his removal.

6. For these reasons, this affiant submits that there is probable cause to believe that on or about October 14, 2017, Salvador Diaz-Gutierrez, an alien, was found in the United States of America at or near Cucklebur, in the District of Arizona, after having been previously denied admission, excluded, deported, and removed from the United States at or near San Ysidro, California, on or about August 9, 2017, and not having obtained the express consent of the Secretary of the Department of Homeland Security to reapply for admission thereto; in violation of Title 8, United States Code, Section 1326(a) and on or about October 14, 2017, at or near Cucklebur, in the District of Arizona, Salvador Diaz-Gutierrez, an alien, did elude the examination or inspection by immigration officers in violation of Title 8, United States Code, Section 1325(a)(2).



Albert A. Martinez
U.S. Border Patrol Agent

Sworn to and subscribed before me
this 16th day of October, 2017.



Bridget S. Bade
United States Magistrate Judge